

This letter rescinds a prior letter ruling (87-0479) regarding the taxability of Toluene under the Motor Fuel Tax Law. (This is a GIL).

May 18, 1999

Dear Xxxxx:

This General Information Letter, issued pursuant to 2 Ill. Adm. Code 1200, is to rescind a General Information Letter previously sent to you dated June 30, 1987. The June 30, 1987 letter stated:

In Illinois, motor benzene regardless of the classification or usage is considered motor fuel and is subject to the Motor Fuel Tax. Consequently, Toluene, which is a classification of motor benzene containing a chemical compound of seven parts carbon and eight parts hydrogen (C_7H_8) is considered a motor fuel. The fact that Toluene in this instance is used as an additive does not prohibit the Department from considering such product a motor fuel. Please refer to Ch. 120, Par. 421 of Ill. Rev. Stat. (1985), as amended.

In regard to Broker Company's purchase of the Toluene from an out-of-State petroleum company and ultimately selling such product to a Blender Company located in Illinois, it is the opinion of the Department of Revenue that Broker Company is considered a distributor and must be registered under Section 3 of the Motor Fuel Tax Act that is Ch. 120, Par. 419 Ill. Rev. Stat. (1985), as amended.

This is so, because Broker Company owns such Toluene or motor fuel at the time it is transferred to the Blender Company located in this State and causes the transportation of such Toluene to an Illinois port. The out-of-State company which transported the Toluene is considered an agent for the Broker Company because the product is owned by such Broker Company.

However, even though Broker Company must be registered as a distributor, it can make tax-free sales to the Blender Company because such company is an Illinois licensed distributor. Please refer to Ch. 120, Par. 422 of Ill. Rev. Stat. (1985), as amended.

The above referenced letter is rescinded in its entirety, effective immediately for the following reasons. "Motor fuel" is defined in the Motor Fuel Tax Law, 35 ILCS 505/1 et seq., as all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles. "Motor fuel" includes "special fuel." See 35 ILCS 505/1.1. "Fuel" is defined as all liquids defined as "motor fuel" in Section 1.1 of the Motor Fuel Tax Law and aviation fuels and kerosene, but excluding liquified petroleum gases. See 35 ILCS 505/1.19.

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Toluene is an aromatic hydrocarbon resembling benzene but less volatile and flammable. It is used as a solvent and as an antiknock agent in gasoline. Toluene, itself, is not considered a "motor fuel" or "fuel" unless blended with other products so that the resultant product is suitable or practicable for operating a motor vehicle.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Gina Roccaforte
Associate Counsel

GR